

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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TIMOTHY JACKSON,

Civil No. 09-846 (JRT/JJK)

Plaintiff,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE; OFFICE OF PROBATION  
AND PAROLE; CHIEF OFFICER  
KEVIN D. LOWRY, in his individual and  
official capacity; MATTHEW G.  
TVEITE, United States Probation Officer,  
in his official capacity,

**ORDER OVERRULING PLAINTIFF'S  
OBJECTIONS TO THE REPORT AND  
RECOMMENDATION OF THE  
MAGISTRATE JUDGE**

Defendants.

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Timothy Jackson, #13009-041, 2825 East Lake Street, Minneapolis, MN 55406, plaintiff *pro se*.

Mary J. Madigan, Assistant United States Attorney, **UNITED STATES ATTORNEY'S OFFICE**, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, for defendants.

On April 13, 2009, plaintiff Timothy Jackson, who was incarcerated at a federal correctional facility in Atlanta, Georgia, filed a civil rights action against the named defendants under 42 U.S.C. § 1983. On August 26, 2009, defendants filed a motion to dismiss the § 1983 claim pursuant to Federal Rule of Civil Procedure 12(b)(6) or, in the alternative, for summary judgment. Jackson did not respond to that motion and on November 13, 2009, United States Magistrate Judge Jeffrey J. Keyes filed a Report and Recommendation recommending that the Court grant defendants' motion to dismiss or

for summary judgment, and recommending that the Court dismiss the action with prejudice. (Report & Recommendation at 12, Docket No. 19.)

The Magistrate Judge concluded his Report and Recommendation – which was filed on November 13, 2009 – with the instruction that “[u]nder D. Minn. L.R. 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **December 1, 2009**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections.” (*Id.*) On December 23, 2009, after neither party filed objections, the Court adopted the Report and Recommendation of the Magistrate Judge; granted defendants’ Motion to Dismiss or for Summary Judgment; and dismissed the action with prejudice. (Docket No. 20.)

On December 28, 2009, four weeks after the deadline for objections to the Magistrate Judge’s Report and Recommendation, the United States District Court Clerk’s Office received by mail Jackson’s “Objection to Report and Recommendation.” (Docket No. 22.) The Objection is dated December 22, 2009, more than three weeks after the deadline.

Although Jackson’s failure to timely object to the Report and Recommendation is an independently sufficient basis on which to overrule his objections, the Court follows the wise course taken by the Magistrate Judge when recommending that the Court grant defendants’ motion. (*See* Report & Recommendation at 6-7, Docket No. 19 (“Rather than relying on Plaintiff’s default [by failing to respond to defendants’ motion] . . . , this Court has reviewed the merits of Defendants’ motion under the dismissal standards of

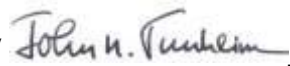
Rule 12 and Rule 56.”).) Consequently, the Court has carefully reviewed the record before it, including the parties’ respective pleadings and memoranda, and Jackson’s objections.

After *de novo* review of the Magistrate Judge’s Report and Recommendation, with particular emphasis on consideration of the issues raised in Jackson’s objections, *see* 28 U.S.C. § 636(b)(1)(C); D. Minn. LR 72.2(b), the Court concludes that the Magistrate Judge’s Report and Recommendation is well-supported and reaches the appropriate legal conclusions in these circumstances. Accordingly, the Court overrules Jackson’s objections and reaffirms its adoption of the Report and Recommendation. (*See* Docket Nos. 20-21.)

### **ORDER**

Based on the foregoing, and the records, files, and proceedings herein, **IT IS HEREBY ORDERED** that Plaintiff Timothy Jackson’s Objections to the Report and Recommendation [Docket No. 22] are **OVERRULED**.

DATED: March 8, 2010  
at Minneapolis, Minnesota.

s/   
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JOHN R. TUNHEIM  
United States District Judge